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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,656	08/02/2001	Reinhard Schauer	SCHAUER ET A	6290

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EXAMINER

TRAN, THIEN F

ART UNIT PAPER NUMBER

2811

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application N .

09/890,656

Applicant(s)

SCHAUER ET AL.

Examiner

Thien Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wijaranakula et al. (USPN 6,022,793) in view of Graef et al. (USPN 5,935,320).

Wijaranakula et al. discloses a semiconductor wafer comprising a substrate wafer made of monocrystalline silicon and an epitaxial layer deposited thereon; said substrate wafer having a resistivity of from 0.1 to 50  $\Omega\text{cm}$ , an oxygen concentration; the epitaxial layer has a thickness less than 1  $\mu\text{m}$ . Wijaranakula et al. does not disclose the oxygen concentration of less than  $7.5 \times 10^{17} \text{ atcm}^{-3}$  and a nitrogen concentration of from  $1 \times 10^{13}$  to  $5 \times 10^{15} \text{ atcm}^{-3}$ . Graef et al. discloses a process for producing silicon semiconductor wafers with low defect density, wherein a substrate wafer having an oxygen concentration of  $4.5 \times 10^{17} \text{ atcm}^{-3}$  and a nitrogen concentration of  $2.5 \times 10^{14} \text{ atcm}^{-3}$  (see Fig. 6). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the substrate wafer of Wijaranakula et al. having an oxygen concentration of  $4.5 \times 10^{17} \text{ atcm}^{-3}$  and a nitrogen concentration of  $2.5 \times 10^{14} \text{ atcm}^{-3}$  using the process taught by Graef et al. in order to provide silicon wafers with low defect density after annealing. The modified Wijaranakula et al. has

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the same structure as claimed, it is inherent that the epitaxial layer has a surface on which fewer than 30 LLS defects with a size of more than 0.085 um can be detected.

***Response to Arguments***

Applicant's arguments filed 05-15-2003 have been fully considered but they are not persuasive.

In response to applicant's argument that neither of these prior art references recognize the problem solved by the present invention, it has been held that the mere fact that the references relied on by the Patent and Trademark Office fail to evince an appreciation of the problem identified and solved by applicant is not, standing alone, conclusive evidence of the nonobviousness of the claimed subject matter. The references may suggest doing what an applicant has done even though workers in the art were ignorant of the existence of the problem. In re Gershon, 152 USPQ 602 (CCPA 1967). Furthermore, it is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972); in re Dillon, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1990), cert. Denied, 500 U.S. 904 (1991).

In response to applicant's argument that the semiconductor wafer with an epitaxial layer has a particularly small number of LLSs, the fact that applicant uses the device for a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference. In re Lintner, 173 USPQ 560.

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In response to applicant's argument that the prior art processes would produce an entirely different wafer from that being claimed, the examiner does not suggest treating the substrate wafer taught by Graef et al. with the process taught by Wijaranakula et al. as alleged by applicant. Therefore, the resulting structure would not be different from the claimed structure.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien Tran whose telephone number is (703) 308-4108. The examiner can normally be reached on 8:30AM - 5:00PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

tt  
July 22, 2003



Thien Tran  
Patent Examiner  
Technology Center 2800